

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

CHARLES ANTHONY ALLEN §
v. § CIVIL ACTION NO. 9:07cv108
NATHANIEL QUARTERMAN, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Charles Allen, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged deprivations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

The lawsuit was transferred to this Court from the Southern District of Texas. On May 9, 2007, Allen was ordered to pay an initial partial filing fee of \$3.33, pursuant to 28 U.S.C. §1915(b). When Allen did not comply with this order, the Magistrate Judge issued a Report on June 21, 2007, recommending that the lawsuit be dismissed without prejudice.

Allen did not file objections to this Report. Instead, he filed two motions which asked that his cause of action be dismissed without prejudice for improper venue. Because Allen did not object to the Report of the Magistrate Judge, he is barred from *de novo* review by the district judge of the Magistrate Judge's findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in the above-styled cause, as well as the Report of the Magistrate Judge and the Plaintiff's request for dismissal without prejudice. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED without prejudice. This dismissal shall not count as a strike for purposes of 28 U.S.C. §1915(g). It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So **ORDERED** and **SIGNED** this **17** day of **July, 2007**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge